

## GUARANTEE STOOD.

IMPORTANT FERTILIZER CASE DECIDED IN THE SUPREME COURT.

## WHEN AN ACCOUNT CAN BE ORDERED

Decree of Norfolk Court Reversed

in Wharfage Controversy—Chief-of-Police Sustained—Interesting Will Suit.

Opinions were handed down in seventeen cases in the Supreme Court of Appeals of Virginia yesterday. It was the first decision-day of the March term, no opinions having been submitted on Thursday of last week, and it was one of the busiest days in this respect that the court has experienced in years.

The case of Reese & Co. against Bates, from the Circuit Court of Norfolk county, was one of the most important decided.

The opinion was by Judge Keith, and the case involved a fertilizer transaction between the plaintiff and the defendant. Reese & Co. instituted suit against Bates for the sum of \$4,083.75, due them upon certain notes. To this action the defendant pleaded no debit, and tendered two special pleas, to which the plaintiff objected, but the court permitted the pleas to be filed, and its action in Norfolk facilities for the receipt and delivery of freight without extra charge or by way of wharfage. The plaintiffs averred that it was the duty of a company carrying to port a cargo in Norfolk to pay the wharfage and expenses incident to its account until it was ascertained that the plaintiff had the right to demand it; nor will a reference be made for the purpose of furnishing evidence in support of the allegations of a bill.

The opinion says that the lower court erred in entering the decree for an account and without passing upon any other question, reversed it.

**Sulphur-Mines Insurance Suit.**

The case of the Sulphur Mines Company against the Phoenix Insurance Company was decided yesterday, and the opinion was prepared by Judge Keith. The case came up from the Law and Equity Court of the city of Richmond, and the judgment of this tribunal was affirmed. The Sulphur Mines Company sued the insurance company upon a policy of insurance for \$2,122.53, as damage sustained by it because of the destruction by fire of its insured property in the defendant company.

The policy contains the following provision: "This policy is null and void if the property hereby insured, or any part thereof, is mortgaged or otherwise encumbered, either prior or subsequent of date thereof, unless consent to same is endorsed hereon by properly-authorized agent of this company."

Evidence brought out at the trial appeared that the property was encumbered at the time of insurance and of the fact by a deed of trust to Eugene Kelly and Isaac Davenport, Jr., to secure \$300 coupon bonds of the plaintiff company, valued at \$1,000 each.

The Sulphur Mines Company introduced evidence tending to show that its officers and agents had never noticed this provision in the policy underwriting the risk, and that the defendant companies moved the court to dissolve the injunction, which was overruled. The companies then filed their plea of the statute of limitations of three years. After a few days were entered, referring the cause to a commissioner to "take a report and account of what amount or amounts have been paid by the plaintiffs, or any of them, to the defendant companies for the wharfage charge in the bill, when paid, and the facts and circumstances under which said payments were made." From this decree an appeal was allowed by one of the judges of the Court of Appeals.

The Court of Appeals, in concluding, says: "So far as the order granting the

injunction is concerned, it appears to be substantially in accordance with the answer of the defendant, has been acquiesced by the defendant from the time it was entered, and the practice which it was intended to prevent has been abandoned. We shall not, therefore, further consider that feature of the case. The prayer for an account should not have been granted. An order of reference is not awarded to enable a plaintiff to have a verdict as contrary to the law and evidence."

"The law is well stated in Barton's Ch. Pr. Vol. 2, at page 620: 'The settled rule in respect to orders of reference is that before an application for one shall be granted, it must appear with reasonable certainty that an order will be necessary, and it will not be made upon the suggestion that in some contingency one will be required; for it is not due to put the defendant to the trouble and expense of defending an account until it is ascertained that the plaintiff has the right to demand it; nor will a reference be made for the purpose of furnishing evidence in support of the allegations of a bill.'

The opinion says that the lower court erred in entering the decree for an account and without passing upon any other question, reversed it.

**Wharfage Controversy.**

Judge Keith, in the cases of the Baltimore Steam Packet Company against York, Philadelphia, and Norfolk Railroad Company, against the same, presented one opinion covering both. They came from the Corporation Court of the city of Norfolk and are quite interesting and important to shippers. Williams & Co. and a number of other merchants of Norfolk filed their bill in the Hustings Court of that city, averring that they had been required by the defendant companies to pay, in addition to the amount charged for freight transportation, a charge by way of wharfage. The plaintiffs averred that it was the duty of a company carrying to port a cargo in Norfolk to pay the wharfage and expenses incident to its account until it was ascertained that the plaintiff had the right to demand it; nor will a reference be made for the purpose of furnishing evidence in support of the allegations of a bill."

The opinion says that the lower court erred in entering the decree for an account and without passing upon any other question, reversed it.

**Temple's Administrator vs. Wright.**

Circuit Court of Brunswick county, reversed.

**Boehne Woodware Company vs. others.**

Commonwealth (Circuit Court of Lynchburg), affirmed.

**Boyd and wife vs. Clegorn and others.**

writ of error and supersededas to the Circuit Court of Smythe county; bond, \$500.

**Watts vs. Krowl.**

writ of error and supersedesas (Circuit Court of Tazewell county); bond, \$500.

**Worsham vs. Commonwealth (County Court of Alleghany).**

writ of error refused.

**Jennings vs. Bank of Radford.**

(Circuit Court of Pulaski county), appealed rejected.

**Smith vs. Commonwealth (Hustings Court, city of Radford).**

writ of error refused.

**Dudson vs. Ferguson.**

Further argued by Jackson Guy, Esq., for appellant, and submitted.

**Shield vs. Mahoney.**

Argued by T. R. Horland, Esq., for appellant, and continued until to-morrow.

The next cases to be called are Browning vs. Cheek's Executor; Wildberger vs. Cheek's Executor, and Cassey vs. Cheek's Executor—Nos. 68, 69, and 70, on regular docket.

**Holmes Is Free Again.**

Charles A. Holmes, the young white man arrested here two weeks ago on suspicion of being implicated with a man now under arrest in Washington, and that he had no knowledge of the deed of trust when the policy was issued, and that his first intimation was when the proofs of loss were made out. He also stated that he is a large corporation. It was usual to ask "whether or not there is a mortgage on the property." He further states that if he had been informed at the time the policy was issued that there was a deed of trust, it would have made no difference, except that the loss would have been made payable to the trustee; that all the facts would have been communicated to the insurance company. The fact that the syndicate has practically accomplished its work, and that under the terms of the contract it will go out of existence on April 1st, was ignored by the originators of the rumor. The great strength of the Vanderbilt group was the most encouraging feature of the market from bull point of view. New York Central rose to 105.58, the best figure of the year, on semi-official statements that the refunding scheme was progressing favorably. Big Four and Northwest were bought by brokers identified with the Vanderbilt interest, while Omaha ran off 11 per cent, the recent sharp rise having invited profit-taking. The Southwesterns, Grangers, and Louisville and Nashville were in fair demand, and recorded slight advances. During the afternoon session, however, Birmingham was freely sold, and fell 11.2, to 21.2, for the third time, and 3, to 4.5, for the first purchase. Jersey Central dropped 1.2, to 31.2, and American Spirits preferred 2. to 32. The break in the last-named was due simply to the execution of stop-loss orders.

Sugar was the feature of the Industrial group. One firm bought 15,000 shares, carrying the price up to 115.2. Improvement in trade conditions and rumors that the Senate will modify the sugar schedule in the tariff bill had a stimulating effect. Late in the day the company reduced rates 5c. on all grades, and a decline to 114.1 followed in the certificates. Pacific Mail moved up to 27.78, on the announcement of the safe arrival of an over-due steamer. Chicago Gas was notably strong throughout, and at one time sold up to 73.4. It was reported that the consolidation bill will shortly be introduced in the Illinois Legislature.

Rubber preferred dropped nearly 3 per cent, the recent reduction in the price of the manufacturing article having induced further liquidations.

Stearns—Spots quiet; No. 3, 2d, 1-2c.

Lard—Steady; No. 3, 2d, 1-2c.

Dry-Salted Meats—Steady; shoulders, 4.5c; short ribs sides, 3.5c; clear bellies, 3.5c; bacon—steaks, 3.5c; short ribs, 3.5c; boxed meats, 3c. more.

Whiskey—Steady at \$1.17.

**ST. LOUIS.**

ST. LOUIS, MO., March 18.—Flour-Firm.

Wheat—Higher; May, \$9 1-2c. bl; July, 75c. bl.

Com—Higher; March, 21c., nominally;

May, 22 1-2c. bl; July, 22 1-2c.

Oats—Higher; March, 18 1-2c.; July, 17 1-2c.

Other articles unchanged.

**CINCINNATI.**

CINCINNATI, O., March 18.—Flour—Quiet; winter patents, \$4.55-\$4.75; do. fan-cy, \$4.75-\$5.

Wheat—Quiet; No. 2, 2d, 1-2c.

Com—Steady; No. 2, near by, 39 1-2c.

Oats—Steady; No. 2, 2d, 1-2c.

Grain—Frights—Quiet; steam to Liverpool, per bushel, 21 1-2d; for April; Cork, for orders, per quarter, March, 3s. 3d.; April, 3s. Other articles unchanged.

**CHICAGO.**

CHICAGO, ILL., March 18.—Flour—Firm.

Wheat—Dull and unchanged.

Corn—Firm and unchanged.

Oats—Quiet; No. 3, mixed, 18 1-2c.

Lard—Kettle steady; steam leaf, \$4.02 1-2c.

Dry-Salted Meats—Steady; shoulders, 4.5c; short ribs sides, 3.5c; clear bellies, 3.5c.

Bacon—Steaks, bone shoulders, 3c; short ribs, 3c; short ribs sides, 3c; clear bellies, 3.5c; boxed meats, 3c. more.

Whiskey—Steady at \$1.17.

**ST. LOUIS.**

ST. LOUIS, MO., March 18.—Flour-Firm.

Wheat—Higher; May, \$9 1-2c. bl; July, 75c. bl.

Com—Higher; March, 21c., nominally;

May, 22 1-2c. bl; July, 22 1-2c.

Oats—Higher; March, 18 1-2c.; July, 17 1-2c.

Other articles unchanged.

**THE COTTON MARKETS.**

LIVERPOOL, March 18.—Flour—Firm.

American middlings, 1-2c.

English middlings, 1-2c.

French middlings, 1-2c.

Spanish middlings, 1-2c.

Other articles unchanged.

**NEW YORK PRODUCE MARKET.**

NEW YORK, March 18.—Flour—Dull but steady.

Middleweight, 1-2c.

Heavyweight, 1-2c.

Lightweight, 1-2c.

Other articles unchanged.

**RICHMOND TOBACCO MARKET.**

RICHMOND, VA., March 18.—Flour—Firm.

Wheat—Dull and unchanged.

Com—Firm and unchanged.

Oats—Steady; No. 2, 2d, 1-2c.

Barley—Steady; No. 2, 2d, 1-2c.

Rye—Steady; No. 2, 2d, 1-2c.

Other articles unchanged.

**GRANDEUR STOCK MARKET.**

Southern Railway, preferred, 104.

South Carolina 4½%, 104.

Tennessee new 5%, registered, 79.

United States 4%, 103.

United States 3½%, 103.

Virginia 6½%, 103.

Virginia Frost 4½%, 103.

Virginia Gossoms, 102.

Virginia Gossoms, 102.